

AMENDED IN SENATE MARCH 26, 2007

**SENATE BILL**

**No. 5**

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**Introduced by Senator Machado**

December 4, 2006

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*An act to add Article 8 (commencing with Section 8724) to Chapter 3 of Part 4 of Division 5 of the Water Code, relating to flood management.*

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Machado. Flood management.

~~The~~

(1) *The* existing Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. That existing act requires the compilation of a state plan of flood control.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$5,388,000,000 to fund projects and expenditures relating to safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.

This bill would make legislative findings and declarations regarding the necessity of developing a comprehensive integrated flood policy and flood management program that addresses all aspects of flood

management, clarifying the roles and responsibilities of the state, local flood management agencies, cities and counties, developers, and property owners as part of an integrated flood policy, and integrating the flood-related funding authorized by those bond acts with the integrated flood policy and flood management program. ~~The bill would state the intent of the Legislature to establish and clarify the roles and responsibilities of specified entities for managing flood risk and to invest bond funds made available by the bond acts consistent with those roles and responsibilities.~~

*(2) The Department of Water Resources performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River; their tributaries, and related areas.*

*This bill would require the department, on or before January 1, in years ending in 0 and 5, to prepare the Sacramento-San Joaquin River Flood Management System Plan. The bill would require the board, on or before March 31, in years ending in 0 and 5, to adopt the plan.*

*The bill would require the plan to include specified components, including a description of the Sacramento-San Joaquin River Flood Management System, as described, a description of the performance of the system and challenges to modifying the system to provide appropriate levels of flood protection, and findings and recommendations with regard to structural and nonstructural projects that, upon completion, will significantly reduce flood risks within the Sacramento and San Joaquin Rivers drainage. The department would be required to include in the plan evaluations of the methods for improving the performance of the system, the structural improvements necessary to bring each of the facilities of the State Plan of Flood Control for the Central Valley, as defined, to within its design standard, methods for providing an urban level of flood protection to urbanized areas, and methods for reducing flood risks in nonurbanized areas.*

*Upon the adoption of the plan by the board, specified facilities would be deemed to be part of the system and the board would be required to take action necessary to remove certain facilities from the State Plan of Flood Control for the Central Valley. The department would be required to prepare, and the board to adopt, a schedule of implementation for recommended actions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) To successfully improve state flood policy and reduce flood  
4 risks, it is necessary to develop a comprehensive integrated flood  
5 policy and flood management program that addresses all aspects  
6 of flood management.

7     (b) Further, as part of an integrated flood policy, it is necessary  
8 to clarify the roles and responsibilities of the state, local flood  
9 management agencies, cities and counties, and developers and  
10 other property owners.

11     (c) It is also necessary to integrate the flood-related funding  
12 authorized by the Disaster Preparedness and Flood Prevention  
13 Bond Act of 2006 (Chapter 1.699 (commencing with Section  
14 5096.800) of Division 5 of the Public Resources Code) and the  
15 Safe Drinking Water, Water Quality and Supply, Flood Control,  
16 River and Coastal Protection Bond Act of 2006 (Division 43  
17 (commencing with Section 75001) of the Public Resources Code)  
18 with the integrated flood policy and flood management program.  
19 As part of this integration of policy with financing, it is important  
20 that cost-sharing rules for flooding be consistent statewide.

21     (d) In expending the bond funds, the priority should be to protect  
22 current populations, public safety, and public safety infrastructure.

23     (e) Many urban populations have an inadequate level of flood  
24 protection. At the 4th Biennial CALFED Science Conference 2006,  
25 credible evidence was presented suggesting that a 500-year level  
26 of flood protection is the minimum level of protection that should  
27 be considered for urbanized areas.

28     (f) The integrated strategy for improving the level of flood  
29 protection should include changes in land use and land use  
30 planning. Changes in land use planning requirements should begin  
31 as soon as practicable. The start date for these changes will be  
32 dependent upon a number of events, including, but not limited to,  
33 all of the following:

34     (1) When new flood risk maps are available.

35     (2) When the Department of Water Resources and the  
36 Reclamation Board have completed their assessments of the current  
37 performance of state flood control.

1 (3) When the Department of Water Resources and the  
2 Reclamation Board have amended the state plan of flood control  
3 to add or remove facilities.

4 (4) When the Department of Water Resources and the  
5 Reclamation Board have identified and adopted a schedule for  
6 implementing structural and nonstructural improvements to the  
7 state plan of flood control that improve the operation of the system  
8 and reduce flood risk systemwide.

9 (5) When the Department of Water Resources, local flood  
10 management agencies, and cities and counties have identified and  
11 adopted a schedule for implementing structural and nonstructural  
12 improvements to the state plan of flood control that improve the  
13 operation of the system and reduce flood risk systemwide.

14 *SEC. 2. Article 8 (commencing with Section 8724) is added to*  
15 *Chapter 3 of Part 4 of Division 5 of the Water Code, to read:*

16  
17 *Article 8. Sacramento-San Joaquin River Flood Management*  
18 *System*  
19

20 *8724. Unless the context requires otherwise, the definitions*  
21 *set forth in this section govern the construction of this article.*

22 *(a) "Plan" means the Sacramento-San Joaquin River Flood*  
23 *Management System Plan.*

24 *(b) "State Plan of Flood Control for the Central Valley" has*  
25 *the meaning set forth in subdivision (j) of Section 5096.805 of the*  
26 *Public Resources Code.*

27 *(c) "System" means the Sacramento-San Joaquin River Flood*  
28 *Management System described in Section 8725.*

29 *8725. The Sacramento-San Joaquin River Flood Management*  
30 *System comprises all of the following:*

31 *(a) The facilities of the State Plan of Flood Control for the*  
32 *Central Valley as that plan may be amended pursuant to this*  
33 *article.*

34 *(b) Any existing dam, levee, or other flood management facility*  
35 *that is not part of the State Plan of Flood Control for the Central*  
36 *Valley that the board determines, pursuant to this article, does*  
37 *one or more of the following:*

38 *(1) Provides significant systemwide benefits for managing flood*  
39 *risks within the Sacramento and San Joaquin Rivers drainage.*

1     (2) *Protects urban areas within the Sacramento and San Joaquin*  
2 *Rivers drainage.*

3     (c) *Structural and nonstructural projects that are adopted by*  
4 *the board pursuant to this article and designed to reduce flood*  
5 *risks within the Sacramento and San Joaquin Rivers drainage.*

6     8725.5. (a) *The department shall prepare, and the board shall*  
7 *adopt, the Sacramento-San Joaquin River Flood Management*  
8 *System Plan in accordance with this article.*

9     (b) *On or before January 1, in years ending in 0 and 5, the*  
10 *department shall submit the proposed plan to the board.*

11     (c) *The board shall hold at least two hearings to receive*  
12 *comments on the proposed plan. At least one hearing shall be held*  
13 *in the Sacramento Valley and at least one hearing shall be held*  
14 *in the San Joaquin Valley. The board shall also accept comments*  
15 *in writing with regard to the proposed plan.*

16     (d) *The board may make changes to the proposed plan to resolve*  
17 *issues raised in the hearings or to respond to comments received*  
18 *by the board. The board shall publish its proposed changes to the*  
19 *proposed plan at least two weeks before adopting the plan.*

20     (e) *On or before March 31, in years ending in 0 and 5, the board*  
21 *shall adopt the plan.*

22     8726. *The preparation of the plan pursuant to this article is*  
23 *not subject to the California Environmental Quality Act (Division*  
24 *13 (commencing with Section 21000) of the Public Resources*  
25 *Code).*

26     8726.5. *The department or the board may appoint one or more*  
27 *advisory committees to assist in the preparation of the plan.*

28     8727. *The plan shall include all of the following:*

29     (a) *A description of the Sacramento-San Joaquin River Flood*  
30 *Management System.*

31     (b) *A description of the performance of the system and the*  
32 *challenges to modifying the system to provide appropriate levels*  
33 *of flood protection, and findings and recommendations with regard*  
34 *to structural and nonstructural projects that, upon completion,*  
35 *will significantly reduce flood risks within the Sacramento and*  
36 *San Joaquin Rivers drainage.*

37     (c) *A description of the facilities of the State Plan of Flood*  
38 *Control for the Central Valley, including all of the following:*

39     (1) *The precise location and a brief description of each facility,*  
40 *a description of the population and property protected by the*

1 facility, the system benefits provided by the facility, if any, and a  
2 brief history of the facility, including the year of construction,  
3 major improvements to the facility, and any failures of the facility.

4 (2) The design performance of each facility.

5 (3) A description and evaluation of the performance of each  
6 facility, including the following:

7 (A) An evaluation of failure risks due to each of the following:

8 (i) Overtopping.

9 (ii) Under seepage.

10 (iii) Structural failure.

11 (iv) Seismic events.

12 (v) Other sources of risk that the department or the board  
13 determines are applicable.

14 (B) A description of any uncertainties regarding performance  
15 capability, including uncertainties arising from the need for  
16 additional engineering evaluations or uncertainties arising from  
17 changed conditions such as changes in estimated channel  
18 capacities.

19 (d) A description of each existing dam that is not part of the  
20 State Plan of Flood Control for the Central Valley that provides  
21 either significant systemwide benefits for managing flood risks  
22 within the Sacramento and San Joaquin Rivers drainage or protects  
23 urban areas within the Sacramento and San Joaquin Rivers  
24 drainage, including all of the following information:

25 (1) The precise location and a brief description of each facility,  
26 a description of the population and property protected by the  
27 facility, and a brief history of the facility, including the year of  
28 construction, major improvements to the facility, and any  
29 uncontrolled releases of the facility.

30 (2) The standard project flood event upon which the flood  
31 operation rules were based.

32 (3) A description of downstream conditions upon which the  
33 flood operation rules were based, including estimated channel  
34 capacities, level of urban development, and other conditions that  
35 the department or the board determines to be relevant.

36 (4) A description of changes in downstream conditions since  
37 the flood operation rules were established.

38 (e) A description of each existing levee and other flood  
39 management facility not described in subdivision (d) that is not  
40 part of the State Plan of Flood Control for the Central Valley that

1 *provides either significant systemwide benefits for managing flood*  
2 *risks within the Sacramento and San Joaquin Rivers drainage or*  
3 *protects urban areas within the Sacramento and San Joaquin*  
4 *Rivers drainage, including all of the following:*

5 *(1) The precise location and a brief description of each facility,*  
6 *a description of the population and property protected by the*  
7 *facility, the system benefits provided by the facility, if any, and a*  
8 *brief history of the facility, including the year of construction,*  
9 *major improvements to the facility, and any failures of the facility.*

10 *(2) The design performance of each facility.*

11 *(3) A description and evaluation of the performance of each*  
12 *facility, including the following:*

13 *(A) An evaluation of failure risks due to each of the following:*

14 *(i) Overtopping.*

15 *(ii) Under seepage.*

16 *(iii) Structural failure.*

17 *(iv) Seismic events.*

18 *(v) Other sources of risk that the department or the board*  
19 *determines are applicable.*

20 *(B) A description of any uncertainties regarding performance*  
21 *capability, including uncertainties arising from the need for*  
22 *additional engineering evaluations or uncertainties arising from*  
23 *changed conditions such as changes in estimated channel*  
24 *capacities.*

25 *(f) A description of the probable impacts of projected climate*  
26 *change, projected land use patterns, and other potential flood*  
27 *management challenges on the ability of the system to provide*  
28 *adequate levels of flood protection.*

29 *(g) An evaluation of both structural and nonstructural methods*  
30 *for improving systemwide performance of the system. The*  
31 *evaluation shall include a prioritized list of recommended actions*  
32 *necessary to improve the performance of the system.*

33 *(h) An evaluation of the structural improvements necessary to*  
34 *bring each of the facilities of the State Plan of Flood Control for*  
35 *the Central Valley to within its design standard.*

36 *(1) The evaluation shall include a prioritized list of*  
37 *recommended actions necessary to bring each facility not identified*  
38 *in paragraph (2) to within its design standard.*

39 *(2) The evaluation shall include a list of facilities recommended*  
40 *to be removed from the State Plan of Flood Control for the Central*

1 Valley. For each facility recommended for removal, the evaluation  
2 shall identify both of the following:

3 (A) The reasons for proposing the removal of the facility from  
4 the State Plan of Flood Control for the Central Valley.

5 (B) Any additional recommended actions associated with  
6 removing the facility from the State Plan of Flood Control for the  
7 Central Valley.

8 (i) (1) An evaluation of both structural and nonstructural  
9 methods for providing an urban level of flood protection to  
10 currently urbanized areas. The evaluation shall include a  
11 prioritized list of recommended actions to improve urban flood  
12 protection.

13 (2) For purposes of this subdivision, “urban level of flood  
14 protection” means that level of protection necessary to protect  
15 against both of the following:

16 (A) A “\_\_\_\_\_ flood,” which means a hypothetical flood  
17 representing \_\_\_\_\_.

18 (B) A \_\_\_\_\_ percent probability of flooding in any one year.

19 (j) An evaluation of both structural and nonstructural methods  
20 for reducing flood risks in currently nonurbanized areas. The  
21 evaluation shall include a prioritized list of recommended actions  
22 to reduce these flood risks.

23 (k) An evaluation of both structural and nonstructural methods  
24 for improving public trust resources and beneficial uses of flood  
25 water where these improvements also contribute to reducing flood  
26 risks.

27 (l) The prioritization of recommended actions required under  
28 this section shall be based on the following criteria:

29 (1) The likelihood of failure by the levee or facility.

30 (2) The current population protected by the levee or facility.

31 (3) The public safety infrastructure protected by the levee or  
32 facility. For purposes of this paragraph, “public safety  
33 infrastructure” means the street and highway evacuation routes,  
34 hospitals, and other public safety infrastructure necessary to  
35 respond to a flood emergency.

36 (4) The willingness of local agencies to participate in  
37 implementing the proposed action.

38 (m) Wherever feasible, the recommended actions in the plan  
39 shall be designed to meet multiple objectives, including each of  
40 the following:

1 *(1) Reducing the risk to human life, health, and safety from*  
2 *flooding.*

3 *(2) Promoting natural dynamic hydrologic and geomorphic*  
4 *processes.*

5 *(3) Reducing damages from flooding.*

6 *(4) Increasing and improving the quantity, diversity, and*  
7 *connectivity of riparian, wetland, flood plain, and shaded riverine*  
8 *aquatic habitats, including agriculture and the ecological values*  
9 *of these lands.*

10 *(5) Minimizing the flood management system operation and*  
11 *maintenance requirements.*

12 *(6) Promoting the recovery and stability of native species*  
13 *populations and overall biotic community diversity.*

14 *(n) For the purposes of preparing the plan, the department shall*  
15 *collaborate with the United States Army Corps of Engineers and*  
16 *the owners and operators of flood management facilities.*

17 *8727.5. Upon adoption of the plan by the board, all of the*  
18 *following apply:*

19 *(a) The facilities identified pursuant to subdivisions (d) and (e)*  
20 *of Section 8727 shall be deemed to be part of the system.*

21 *(b) The board shall take all actions necessary to remove*  
22 *facilities identified pursuant to paragraph (2) of subdivision (h)*  
23 *of Section 8727 from the State Plan of Flood Control for the*  
24 *Central Valley.*

25 *(c) The department shall prepare, and the board shall adopt, a*  
26 *schedule of implementation for all of the recommended actions.*  
27 *The schedule shall include a proposed funding plan.*

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<p><b>All matter omitted in this version of the bill appears in the bill as introduced in Senate, Dec. 4, 2006. (JR11)</b></p>
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